



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

Knapp, Andrew  
3050 Wilshire Blvd.  
Los Angeles, CA 90010-1106

DHS/ICE Office of Chief Counsel- LOS  
606 S. Olive Street, 8th Floor  
Los Angeles, CA 90014

Name: [REDACTED]

A [REDACTED]

Date of this notice: 8/27/2013

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

*DotUtL C fVl.J*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Holmes, David B.

schuckec  
User team: Docket

Falls Church, Virginia 22041

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File: A [REDACTED]-Los Angeles, CA

Date:

AUG 27 2013

Inre: [REDACTED]

INDEPORTATION PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Andrew Knapp, Esquire

APPLICATION: Reopening

On April 19, 2013, the respondent, a native and citizen of Guatemala, filed a motion to reopen to afford her the opportunity to apply for suspension of deportation as the parent of a child who has been battered or subjected to extreme cruelty by his or her lawful permanent resident (LPR) parent.<sup>1</sup> *See* section 244(a)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1254(a)(3) (1995).

The respondent's case arises in deportation proceedings, and her reopening request has been filed pursuant to the Violence Against Women Act ("VAWA"). As such, her motion is not subject to the time and number limitations that may govern other reopening requests in deportation proceedings. *See* section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229a, Note 1 (no time limits on motions to reopen in deportation proceedings for aliens seeking certain forms of relief, including suspension of deportation under section 244(a)(3) of the Act).

The instant motion is supported by an application for suspension of deportation, confirmation that the father of the respondent's two minor daughters is an LPR, evidence alleging that he abused or subjected to extreme cruelty at least one of these children, and other material. The Department of Homeland Security has not responded to this motion, and therefore it is deemed unopposed. 8 C.F.R. § 1003.2(g).

In view of these submissions and the non-opposition to reopening by the DHS, the respondent's motion is granted, her deportation proceedings are reopened, and record is remanded for consideration of her eligibility for suspension of deportation under section 244(a)(3) of the Act. On remand, she may apply for any other relief for which she qualifies. She retains

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<sup>1</sup>The respondent is subject to a final order of deportation entered by the Immigration Judge on July 14, 1995. In that order, the respondent was granted voluntary departure, but she did not depart the United States within the time allotted. Although she may have once been barred from suspension of deportation consideration due to her failure to depart within the time allotted, that no longer is the case as more than 5 years have elapsed since the expiration of her voluntary departure period. *See* section 242B(e)(1995) of the Immigration and Nationality Act, 8 U.S.C. § 1252b(e)(1995); *Matter of Shaar*, 21 I&N Dec. 541 (BIA 1996).

her burden of demonstrating her eligibility for the relief sought? In remanding, we express no opinion as to the ultimate disposition of this case.

ORDER: The motion to reopen is granted.

FURTHER ORDER: The record is remanded for further proceedings consistent with the foregoing opinion and entry of a new decision.

A handwritten signature in black ink, appearing to be 'J.M.', written above a horizontal line.

FOR THE BOARD

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<sup>2</sup> As part of her burden of proof for section 244(a)(3) relief, it is incumbent upon the respondent to demonstrate 3 years of continuous physical presence during the requisite time period.